

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|-------------------------|---|----------------------------|
| GRACENOTE, INC., |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| v. |) | C.A. No. 1:18-cv-01608-RGA |
| |) | |
| FREE STREAM MEDIA CORP. |) | |
| d/b/a SAMBA TV, |) | |
| <i>Defendant.</i> |) | |

JOINT STIPULATION TO STAY THE CASE FOR 95 DAYS

Plaintiff Gracenote, Inc. (“Gracenote”) and Defendant Free Stream Media Corp. (d/b/a Samba TV) (“Samba TV”) (together, “the parties”) jointly stipulate, subject to the Court’s approval, to stay this case for an additional ninety-five (95) days and to extend all deadlines in the Scheduling Order by approximately 95 days. In support of this joint stipulation and request, the parties state as follows:

1. On April 14, 2020, the parties filed a Joint Stipulation to Stay the Case for 90 Days (“the First Joint Stipulation”) (D.I. 47). In the First Joint Stipulation, the parties explained that the deadline for Gracenote’s infringement contentions – which are required to include pinpoint cites to Samba TV’s source code – was approaching quickly, but conditions imposed by the COVID-19 pandemic made review of Samba TV’s source code impossible.
2. The Court granted the First Joint Stipulation on the day it was filed (April 14, 2020) (D.I. 48). The resulting stay expired on July 13, 2020.
3. On July 14, 2020, the parties filed a Joint Stipulation to Stay the Case for 80 Days (“the Second Joint Stipulation”) (D.I. 49). In the Second Joint Stipulation, the parties explained

that conditions imposed by the COVID-19 pandemic continued to make review of Samba TV's source code impossible.

4. The Court granted the Second Joint Stipulation on July 15, 2020 (D.I. 50). The resulting stay will expire on October 1, 2020.

5. The parties now respectfully request an additional 95-day stay (until January 4, 2021) because the conditions imposed by the COVID-19 pandemic continue to make review of Samba TV's source code impossible.

6. Gracenote needs to conduct extensive further review of the source code to be in a position to serve its infringement contentions, which are now due on November 6, 2020 (D.I. 49). The source code requires in-person inspection at a secure terminal, pursuant to the agreed procedures set forth in the Source Code Access Agreement (D.I. 37).

7. However, due to the COVID-19 pandemic, Gracenote still has not been able to access Samba TV's source code for further review. The number of COVID-19 cases in California, where the source code can be made available, still has not sufficiently subsided. (*See* <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Immunization/ncov2019.aspx>.) Thus, access to the code in the near future still looks unlikely.

8. In addition, Gracenote's technical experts who began to review the code prior to the pandemic reside in foreign countries from which travel to the United States would be difficult or impossible.

9. In particular, technical expert Mehmet Celik resides in the Netherlands, from which there is a U.S. travel ban in effect. (*See* <https://www.cdc.gov/coronavirus/2019-ncov/travelers/from-other-countries.html>.)

10. Also, technical expert Jaap Haitsma resides in Chile. Chile is under a state of emergency, and thus, any travel to the U.S. by Mr. Haitsma carries a substantial risk that he will be prohibited from returning to his home in Chile. (See <https://cl.usembassy.gov/u-s-citizen-services/security-and-travel-information/covid-19-information/>.)

11. The lack of access to Samba TV's source code will require a delay in the due date for Gracenote's infringement contentions. Delaying the due date for infringement contentions will have a cascading effect on the other deadlines set forth in the Scheduling Order.

In light of the foregoing, the parties request that the Court stay this case for an additional 95 days and extend all deadlines for approximately the same amount of time. The chart attached to this Joint Stipulation sets forth the current case schedule along with a proposed new schedule that moves each of the remaining deadlines by approximately 95 days.

Dated: September 22, 2020

Respectfully submitted,

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Free Stream Media Corp. d/b/a Samba TV*

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IT IS SO ORDERED this 22 day of September, 2020

/s/ Richard G. Andrews

The Honorable Richard G. Andrews
United States District Judge

CHART OF FUTURE DEADLINES

| ITEM | CURRENT DATE | PROPOSED DATE |
|---|---------------------------------------|--------------------|
| Gracernote's responses to Samba TV's second set of requests for documents | October 2, 2020 | January 5, 2021 |
| Gracernote's responses to Samba TV's second set of interrogatories | October 2, 2020 | January 5, 2021 |
| Samba TV's responses to Gracernote's second set of requests for documents | October 15, 2020 | January 19, 2021 |
| Samba TV's responses to Gracernote's second set of interrogatories | October 15, 2020 | January 19, 2021 |
| Infringement contentions | November 6, 2020 | February 9, 2021 |
| Joinder of other parties and amendment of pleadings | December 4, 2020 | March 9, 2021 |
| Invalidity contentions | December 7, 2020 | March 12, 2021 |
| Exchange claim terms for construction and proposed constructions | December 21, 2020 | March 26, 2021 |
| Joint claim construction chart | December 29, 2020 | April 5, 2021 |
| Gracernote's opening claim construction brief | January 18, 2021 | April 23, 2021 |
| Document production complete | January 25, 2021 | April 30, 2021 |
| Samba TV's answering claim construction brief | February 8, 2021 | May 14, 2021 |
| Gracernote's reply claim construction brief | February 22, 2021 | May 28, 2021 |
| Samba TV's sur-reply claim construction brief | March 8, 2021 | June 11, 2021 |
| Parties file joint claim construction brief | March 15, 2021 | June 18, 2021 |
| Markman hearing | April 16, 2021 | June 30, 2021 |
| Amendment to contentions | 30 days after <i>Markman</i> order | Unchanged |
| Claim and prior art reference narrowing | 14 days after <i>Markman</i> order | Unchanged |
| Fact discovery cut-off | July 5, 2021 | October 8, 2021 |
| Burden of proof opening expert reports | August 12, 2021 | November 15, 2021 |
| Responsive expert reports | September 6, 2021 | December 10, 2021 |
| Reply expert reports | September 30, 2021 | January 3, 2022 |
| Complete expert depositions | November 8, 2021 | February 11, 2022 |
| Case dispositive motions | December 20, 2021 | March 25, 2022 |
| Answering briefs to dispositive motions | January 18, 2022 | April 25, 2022 |
| Reply briefs in support of dispositive motions | February 7, 2022 | May 13, 2022 |
| Pretrial conference | May 27, 2022 | September 2, 2022 |
| Trial begins | June 13, 2022 | September 19, 2022 |

at 9:00 am

at 9:00 am

at 9:00 am